117 **RA-RF-176-2023 (O&M) in**
RFA-1020 of 2016

PARVEEN KUMAR AND ANOTHER VS STATE OF HARYANA AND OTHERS

Present: Mr. Manoj Makkar, Advocate
for the applicants-appellants.

Mr. Shivendra Swaroop, DAG, Haryana
Mr. Jaspal S. Pannu, AAG, Haryana

Mr. Ankur Mittal, Advocate and
Ms. Kushaldeep Kaur, Advocate
Mr. Jugam Arora, Advocate
for the HSVP.

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C.M.No.1362-CI-2023

1. For the reasons mentioned in the application, which is supported by an affidavit, the application is allowed and the delay of 377 days in filing the review application is condoned.

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2. By a detailed judgment passed in ***M/s Satkarta Realtors (P) Ltd. vs. State of Haryana and others(*** Regular First Appeal No.458 of 2016, decided on 02.03.2022) along with connected cases, a batch of 154 Regular First Appeals were allowed. Para 6.13 and 7 are extracted as under:-

> ***"6.13.*** *It is evident from the perusal of the table that most of the sale deeds of the acquired land, information whereof is compiled in para 6.1 are in the price ranging from 42,50,000/- per acre. Ex.P14 is a sale instance of 11 biswas of land which has been sold at the rate of Rs.42,73,454/-. However, this is a small piece of land as compared to the various other sale instances. Hence, it would not be appropriate to rely upon Ex.P14. In the present case, the notification under Section 4 is of 15.12.2006 whereas most of the sale instances of the*

acquired land are with respect to sale during the month of May or June 2006. Thus, there is a gap of six months. Hence, the landowners are held entitled to escalation of the market value for this 6 months period at the rate of 10% per annum, which works out to Rs.44,62,500/- per acre.

*7. **Decision**:-*

Accordingly, these appeals are allowed while assessing the market value of the acquired land as on 15.12.2006 at rate of Rs.44,62,500/- per acre."

3. The Reference Court while allowing the various applications filed under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the 1894 Act) granted the statutory interest as provided under Section 28 of the 1894 Act. Certain appeals were filed before the Hon'ble Supreme Court challenging the correctness of the assessment of market value made by this Court. The aforesaid appeals were decided on 31.10.2022 with the following order:-

"*Learned counsel for the Petitioners seeks permission to withdraw the SLP with liberty to file a Review limited to only the point, non-grant of interest contemplated under Section 28 of the Land Acquisition Act, 1894, for the period from 30.11.2009 till 02.03.2022.*

Permission is granted.

The SLP is dismissed as withdrawn with liberty to file a Review to this aspect. Further, liberty is granted to the petitioners to challenge the impugned order limited only to the aspect of interest in case the decision in Review is adverse to the Petitioners."

4. Pursuant to the liberty granted by the apex Court, the review

application has been filed before this Court to claim the interest contemplated under Section 28 of the 1894 Act from 30.11.2009 till 02.03.2022.

5. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

6. After examining the judgment dated 02.03.2022, it has come to light that the Court inadvertently omitted a specific award of interest, even though statutory provision requires it. Section 28 of the 1894 Act enables/mandates the Court to grant enhanced compensation along with the rate of interest as specified therein. Section 28 of the 1894 is extracted as under:-

> *28. Collector may be directed to pay interest on excess compensation.-If the sum, which the Collector did award as compensation, the award of the Court may direct that the collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into Court:*
>
> *[Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry."*

7. It is unusual for interest to be denied in such situations as it is typically a statutory requirement. In this case, the State never challenged the

award of interest made by the Reference Court.

8. Hence, the review-application is allowed. The applicants/landowners are entitled to the enhanced compensation along with interest contemplated under Section 28 of the 1894 Act for the period from 30.11.2009 to 02.03.2022.

May 05, 2023 **(ANIL KSHETARPAL)**
nt **JUDGE**